

ICC Implementation & compliance with Article 9 - BRAZIL

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Language

System language

1. Submitting Party (country name):

BR

2. Contact information

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3. 1.1 In your country, is information about potential or confirmed cases of illegal traffic collected?

*** Yes ***

No

4. If yes , please specify how:

*** Through an established system where responsibilities of entities are clearly established ***

On an ad hoc basis

Other (please specify)

Brazil established a single window system of foreign trade, known as SISCOMEX. The single foreign trade window comprises the creation of a single channel of contact between operators and government to process import, export and customs transit operations. Through it, all requests for data and documents submitted by the organs involved in the trade are made to the operators in a harmonized way through a unique communication interface. The response to import, export and transit requests is also coordinated through this system. IBAMA uses the SISCOMEX to obtain information about importers, exporters and what goods they market.

5. If no , please specify why:

*** Lack of adequate legal framework to prevent and punish illegal traffic ***

Lack of assignment of responsibility to an entity to collect such information
Other (please specify)
Not answered

6. 1.2 In your country, how is information about potential or confirmed cases of illegal traffic usually brought to the attention of the designated Basel Convention Competent Authorities or Focal Point?

Through communication with Competent Authorities in other Parties

*** Through communication with enforcement entities within your country (eg. Customs, police, environmental inspectors, port authorities) ***

Through the press

Other (please specify)

99% of confirmed illegal traffic cases were verified through Customs authorities in Brazil.

7. 1.3 In your country, do you see challenges for Competent Authorities or the Focal Point to have access to information on potential or confirmed cases of illegal traffic?

*** Yes ***

No

8. If yes, please indicate why:

*** Lack of cooperation at the international level ***

Lack of communication and coordination between entities at the national level

Lack of adequate legal framework to enforce the provisions of the Basel Convention

*** Lack of awareness of enforcement entities about the provisions of the Basel Convention ***

Lack of technical capacity to detect cases of illegal traffic

Other (please specify)

Not answered

9. 1.4 In the last 5 years, to your knowledge have there been cases of transboundary movement of hazardous wastes and/or other wastes involving your country which were deemed to be illegal

*** Yes ***

No

10. If yes, please indicate the number of cases of illegal traffic:

between 1 and 5

*** between 6 and 10 ***

between 11 and 20

more than 20

11. 1.5 Has information about these cases been transmitted to the Secretariat using the form for confirmed cases of illegal traffic or the national reporting format?

Yes

*** No ***

12. If no, please specify why:

Competent Authority and/or Focal Point does/do not have access to the information

*** Transmission of information would not necessarily achieve the objectives of the Convention ***

Other (please specify)

All cases involving hazardous waste loads were communicated to the Secretariat. Other cases were of urban waste importation and occurred on the border between Brazil and Uruguay, and the waste loads were promptly returned to the generator, and were not communicated to the Secretariat.

13. 1.6 Is information about cases of illegal traffic transmitted to other entities at the international level?

Yes

*** No ***

14. If yes , please specify which ones:

BCRC

Regional organization (please specify)

Not answered

United Nations body (please specify)

Not answered

15. 2.1 Can your country share best practices with respect to the implementation of Article 9 of the Basel Convention?

*** Yes ***

No

16. If yes , please elaborate:

*** Adequate domestic legal and institutional framework implementing Article 9 of the Basel Convention and complementing it as necessary to enable its enforcement (eg. penalties in case of illegal traffic) ***

*** Awareness of stakeholders involved in transboundary movements (eg. generator, exporter, transporter, importer and disposer) of the relevant provisions of the Basel Convention pertaining to the control of such movements and illegal traffic; ***

Training activities for enforcement entities, for instance integration of the Basel Convention in the national training or educational curricula of Customs, police, prosecutors, the judiciary and other enforcement entities;

*** Establishment of environmental units within enforcement entities; ***

Clear assignment of responsibilities between all the entities involved in the enforcement of Article 9 of the Basel Convention, and adequate communication or coordination mechanisms among them;

*** Other best practices ***

Please elaborate on the nature of the “other best practice” and on any box you have ticked

Brazil is developing criteria to carry out the risk management of waste imports, based on the use of the single window system for foreign trade.

17. 2.2. Has your country faced any difficulties in implementing the provision in Article 9 of the Basel Convention ?

*** Yes ***

No

18. (i) Domestic difficulties :

Lack of or inappropriate domestic legal or institutional framework to implement Article 9 of the Basel Convention;

Lack of clarity about what is deemed to be illegal traffic at the national level;

Lack of clarity with respect to the applicable rules;

Lack of understanding of the distinction between waste and non-waste at the national level;

Challenges in identifying that a transboundary movement of hazardous wastes or other wastes may be a case of illegal traffic as defined by paragraph 1 of Article 9 (constitutive elements);

Lack of access to adequate information about possible cases of transboundary movements of hazardous wastes or other wastes deemed to be illegal traffic

*** Lack of awareness among relevant entities within the country involved in preventing and combating illegal traffic about the requirements of Article 9 (e.g customs, port authorities, etc.); ***

*** Lack of coordination/cooperation at the national level among relevant entities involved in transboundary movements of hazardous and other wastes; ***

Other difficulties

Please elaborate on the nature of the “other difficulties” and on any box you have ticked

Not answered

19. (ii) International cooperation difficulties :

Lack of information on other Parties’ definition or understanding of what is deemed to be illegal traffic;

Lack of harmonized definition or understanding of the meaning of ‘waste’, ‘hazardous waste’ and ‘other waste’;

Lack of shared understanding among Parties of how to implement Article 9 of the Convention;

Difficulties in communicating/cooperating with the relevant entities from the States concerned (State of transit, State of export);

Difficulties in identifying or communicating with exporter or generator;

*** Lack of shared understanding of how to operationalize paragraphs 2, 3 and 4 of Article 9; ***

Other difficulties

Please elaborate on the nature of the “other difficulties” and on any box you have ticked

Not answered

20. 2.3. Is your country aware of any difficulties faced by stakeholders (e.g. generators, exporters, transporters, importers, disposers, etc.) involved in transboundary movements of waste with the implementation of Article 9 of the Basel Convention?

*** Yes ***

No

21. If yes , provide the nature of the difficulties encountered

Under Brazilian law, a waste load considered illegal will have 30 days to be returned to the country of origin, under penalty of high fines imposed by the customs authority. Generally, a return process takes more than 30 days, as investigations to determine if the waste load is hazardous requires time-consuming laboratory analyzes.

22. 2.4 Have the guidance documents developed under the Convention pertaining to preventing and combating illegal traffic (

<http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx#>) been disseminated, transposed in national legislation or are they being used in your country?

(i) Guidance on the implementation of the Basel Convention provisions dealing with illegal traffic (paragraphs 2, 3 and 4 of Article 9):

Has it been disseminated?

*** Yes ***

No

23. Has it been transposed in legislation?

Yes

*** No ***

24. Is it used?

Yes

No

*** I don't know ***

25. (ii) Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes

Has it been disseminated?

Yes

*** No ***

26. Has it been transposed in legislation?

Yes

*** No ***

27. Is it used?

Yes

No

*** I don't know ***

28. (iii) Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Waste:

Has it been disseminated?

Yes

*** No ***

29. Has it been transposed in legislation?

Yes

*** No ***

30. Is it used?

Yes

No

*** I don't know ***

31. (iv) If the guidance documents are used, please elaborate on how you disseminated them and how useful they have been for your country:

Not answered

32. (v) If not, please elaborate on why:

The guides are known by the competent authorities of the Convention in Brazil, but are not yet disseminated between the police and customs authorities, which are the authorities who investigate material and documentary irregularities in imports and exports. With the approval of CETESB as Basel's regional center, IBAMA hopes to place greater emphasis on the training process of these authorities.

33. 2.5 Have the training tools developed by the Secretariat pertaining to preventing and combating illegal traffic been disseminated, transposed in national legislation or are they being used in your country?

(i) **Interactive Manual for Customs on hazardous chemicals and wastes under the Basel, Rotterdam and Stockholm conventions (**
<http://www.basel.int/Implementation/Publications/TrainingManuals/tabid/2363/Default.aspx>)

Has it been disseminated?

Yes

*** No ***

34. Has it been transposed in legislation?

Yes

*** No ***

35. Is it used?

Yes

No

*** I don't know ***

36. (ii) Basel Convention Training Manual on Illegal Traffic for Customs and Enforcement Agencies (
<http://www.basel.int/Implementation/Publications/TrainingManuals/tabid/2363/Default.aspx>)

Has it been disseminated?

Yes

*** No ***

37. Has it been transposed in legislation?

Yes

*** No ***

38. Is it used?

Yes

No

*** I don't know ***

39. (iii) E-learning module for law enforcement officers on hazardous chemicals and wastes under the Basel, Rotterdam and Stockholm Conventions (<http://synergies.pops.int/Implementation/TechnicalAssistance/ToolsandMethodologies/Elearningmoduleforlawenforcement/tabid/3534/language/en-US/Default.aspx>)

Has it been disseminated?

Yes

*** No ***

40. Has it been transposed in legislation?

Yes

*** No ***

41. Is it used?

Yes

No

*** I don't know ***

42. (iv) If the tools are used, please elaborate on how you disseminated them and how useful they have been for your country:

Not answered

43. (v) If no , please elaborate on why:

The tools are known by the competent authorities of the Convention in Brazil, but are not yet disseminated between the police and customs authorities, which are the authorities who investigate material and documentary irregularities in imports and exports. With the approval of CETESB as Basel's regional center, IBAMA hopes to place greater emphasis on the training process of these authorities.

44. What steps would you suggest could be taken to improve implementation of Article 9 of the Basel Convention, whether at the national or global level?

Please indicate the order of priority:

	Very low	Low	Medium	High	Very high
Establishment of coordinating mechanisms between Competent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Authorities and enforcement entities

Review and strengthening of legal and institutional framework implementing the Basel Convention, in particular whether it embodies the necessary provisions of the Convention pertaining to illegal traffic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Further prioritization of preventing and combating illegal traffic as a policy priority at the national level	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Better understanding the drivers of illegal traffic and the scope of the problem	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Strengthening of the Secretariat's and the BCRCs' technical assistance activities (please specify below the areas of assistance needed and the nature of the activities sought eg, country-specific, workshop, webinar)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Review of the ENFORCE terms of reference (annex to decision BC-11/8) with a view to strengthening this partnership	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Development further guidance documents at the global level (please specify below the scope of such guidance)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Broader dissemination of existing guidance and technical	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

assistance tools developed under the Convention					
Greater access to information on the work of organizations with a mandate on preventing and combating illegal traffic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Strengthening of international cooperation among international organizations with a mandate in preventing and combating illegal traffic	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Learning from possible lessons under other multilateral environmental agreements with trade control regimes (eg. CITES; Montreal Protocol, Cartagena Protocol)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

45. If Other , please specify below:

Not answered

46. Please add any additional information or comments pertaining to the implementation of Article 9 of the Basel Convention that is not included in answers to the above questions.

Strengthen the partnership with the World Customs Organization so that countries committed to using the Single Window for Foreign Trade can begin to use electronic notification and movement documents and that cases of illegal traffic be alerted in this system in order to monitoring the return of waste loads.